

## NOTES OF INTEREST AND GUIDANCE (CONT.)

### COUNSEL'S CORNER - FRAUDULENT BUSINESS PRACTICES

The Navy, as one of the world's largest purchasers of goods and services, is a tempting target for those contractors that engage in illegal or unethical business practices. Today, contractors are somehow involved in almost everything the Navy does, whether it is the outfitting of ships, the maintenance of Naval Facilities or the delivery of health care services to officers, sailors and their dependents. While most companies doing business with the Government are honest, many are not. It is incumbent upon all Naval personnel to be vigilant and report all suspected instances of wrongdoing by those who are compensated with taxpayer dollars.

Fraud can take many forms. It can be the payment of a bribe or gratuity to a Government official, submission of a false claim or invoice under a Government contract, use of false weights and measures, evasion of inspectors, substitution of materials, misappropriation of government-owned property, or falsification of records and books of account. Fraud also includes conflicts of interest and unauthorized disclosure of sensitive official information regarding the procurement system, as was the case in the recent Ill Wind investigation. No single definition encompasses all possible types of fraud. However, Naval personnel in positions where they can observe the performance of government contractors should use their common sense. If it does not look right, there is a good chance that it is not right.

Persons charged as part of their official duties with monitoring the work of a contractor are often in the best position to detect unscrupulous behavior. This group will include government inspectors, COTRs, and auditors. Yet all Naval personnel whose paths cross those of a dishonest government contractor have at least the potential to uncover improper conduct. If fraud is suspected, it should be reported.

In this regard, Naval personnel have several options. DoD has established a "Hot Line" for government employees to report suspected incidents of fraud, waste or mismanagement in Government programs. This toll free telephone number is (800) 424-9098. Reports can be submitted in writing to Defense Hotline, The Pentagon, Washington, D.C. 20301-1900. The General Accounting Office (GAO) has also established a "Hot Line" at (800) 424-5454. Calls on this "Hot Line" are received by the GAO Fraud Task Force and tips on matters involving the Navy are referred to the Defense Investigative

Service (DIS), which in turn will refer the case to the Naval Investigative Service (NIS). The identities of all persons making calls and written reports to both "hot lines" are held in strict confidence. Additionally, reports can be made directly to the regional fraud units within NIS or to the Office of the Naval Inspector General. Of course, Naval personnel can also use their normal chain of command to report suspected problems.

The Government has the right to expect its contractors to comply with a certain level of responsibility and business integrity. When these standards are breached, the Government has open to it a number of criminal, civil, contractual and administrative remedies. However, these remedies are worthless unless fraudulent activities are first detected and then reported.

### VENDOR FURNISHED EQUIPMENT

Often, as part of a marketing strategy, a commercial vendor will offer to provide highly technical and expensive medical equipment to military hospitals at no cost to the Government. In exchange, the Government usually must promise to procure related medical supplies exclusively from the supplier of the equipment. Seemingly this is an arrangement of mutual benefit in that the supplier is guaranteed a market for its goods and the Government obtains the usage of new medical equipment without the expenditure of precious appropriated dollars. But in striking this bargain with the supplier, is the Navy medical materiel management officer acting in the best interests of the Navy?

Frequently, he is not. Where such equipment represents a valid need of the Government, it should be purchased or leased with appropriated funds. All statutory requirements and procurement regulations must be followed. In addition, the Navy has no authority to commit to the purchase of related supplies from a vendor on an exclusive basis. To do so results in a sole-source acquisition, which in most cases will violate the Competition in Contracting Act and Part 6 of the Federal Acquisition Regulation (FAR). Also, the prices paid for these related supplies will often be higher than that which would have been obtained if competitive offers had been solicited.

## NOTES OF INTEREST AND GUIDANCE (CCNT.)

### VENDOR FURNISHED EQUIPMENT (CONT.)

This is not to say that the medical materiel management officer must in every case provide compensation when a vendor offers to allow the Navy to use its equipment. As part of its efforts to stay abreast of recent developments in medical technology and to define its requirements for these products, the Government may take possession of and use vendor-owned equipment on a "free trial" basis for brief periods of time. However, the term of such arrangements should be relatively short; sixty to ninety days is the norm. Like vendor demonstrations, these arrangements can be a useful way of testing new technical innovations. However, once a determination is made that such equipment represents a valid need of the Government, it must be acquired using standard procurement procedures.

NAVMEDCOMINST 6700.1 provides policy and procedures for conducting user tests of medical and dental equipment. If you are considering the use of equipment onboard your command for evaluation purposes this is the most appropriate means of doing so. For more information on the Test and Evaluation Program you may contact Mrs. Cheryl Bittner at (301) 663-7117 or by AUTOVON at 343-7117.

### PHONE NUMBER CHANGE

The telephone number for the U. S. Army Medical Materiel Agency (USAMMA), Defense Depot Tracy, CA has been changed to (209) 832-9558 or AV 462-9556. The Tobyhanna and Tracy Army Depot under an Inter-Service Support Agreement repair or replace medical items such as X-ray tubeheads, EKG's, X-ray high tension cables, densitometers, microscopes, spectrophotometers and printed circuit boards.

### DEFENSE SMALL PURCHASE COURSE

The Defense Small Purchase Course is designed to prepare personnel for their responsibilities in the small purchase arena. This course meets the requirements of SUPARS 13.103-1, which states all personnel involved in the purchasing function (contracting officers, storekeepers, buyers, BPA callers, etc.) shall attend a NAVSUP-authorized Small Purchase Course. The Defense Small Purchase Course will offer you a better understanding of the regulations, clarify some of those "gray areas" so often encountered and serve as a refresher course in the midst of our ever changing procurement environment.

### NEW ITEM AVAILABILITY

The following items are available for immediate issue through Defense Logistics Agency Depot System:

1. 6505-C1-201-2824, Cefotaxime Sodium, Sterile, USP, Equivalent to 1 Gram of Cefotaxime, 50s. The unit price is \$368.46 per package.
2. 6505-C1-261-5888, Docusate Calcium and Phenolphthalein Capsules, 1000s. The unit price is \$54.40 per bottle.
3. 6505-01-261-5889, Docusate Calcium and Phenolphthalein Capsules, 100s. The unit price is \$6.67 per bottle.
4. 6505-J1-267-2497, Lovastatin Tablets, 20 mg, 60s. The unit price is \$75.00 per bottle.
5. 6505-21-246-1920, Chlorpheniramine Maleate and Phenylpropanolamine Hydrochloride Capsules, Sustained Release, 100s. The unit price is \$16.18 per bottle.